

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 4322 of 2007(M)

PETITIONER:

MURALEEDHARAN NAIR,
BINDHU NIVAS, AVANANVANCHERY,
ATTINGAL.

BY ADV. SRI.SEBASTIAN DAVIS

RESPONDENTS:

1. THE SECRETARY ATTINGAL
MUNICIPALITY, ATTINGAL.
2. MOHANAN NAIR, BHAVANA,
AVANAVANCHERY, ATTINGAL.
3. THE TRIBUNAL FOR LOCAL SELF
GOVERNMENT INSTITUTIONS,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI.M.R.ANANDAKUTTAN

SMT.M.HEMALATHA

SRI.R.S.MADHU

SRI.MAHESH ANANDAKUTTAN

R3 BY ADV. SMT. T.B. RAMANI, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22/03/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 4322 OF 2007

Dated this the 22nd day of March, 2007

JUDGMENT

Heard Sri.Sebastian Davids, counsel for the petitioner and Smt.M. Hemalatha, representing Sri.M.R.Anandakuttan, Standing Counsel for Attingal Municipality.

2. Ext.P3 order of the Tribunal for Local Self Government Institutions confirming the demolition order of the Municipality is under challenge when Ext.P3 is gauged by the parameters to be adopted when this Court exercises powers of judicial review on orders passed by judicial Tribunals, it will be difficult to say that Ext.P3 is unreasonable to such an extent as warranting correction under Article 226 or 227.

3. Mr.Sebastian Davis further submitted that the petitioner's plot is a small one and perhaps it will be possible for the Municipality to regularise the construction by invoking powers under Rule 143, considering the fact that the building comes under Rule 60 of the Kerala Municipality Building Rules. I find that the above aspect of the matter is not considered by the Tribunal. Perhaps the above aspect was not brought to the notice of the Tribunal at all.

Under these circumstances, I relegate the issue back to the Municipality for considering the question whether petitioner's plot is a

small plot for the purpose of Chapter VIII and whether the construction put up by the petitioner can be regularised in terms of Rule 143 of the Municipality Building Rules. Decision as directed above will be taken by the Municipality at the earliest and at any rate within two months of receiving copy of this judgment. An application for regularisation will be submitted by the petitioner before the Municipality within three weeks of receiving copy of this judgment and the Municipality will pass orders within two months. The status quo obtaining regarding the shed will be maintained till final orders are passed by the Municipality. Since the party respondent has not entered appearance before this Court, it is not necessary for the Municipality to hear the party respondent before decision is taken on the regularisation application.

PIUS C. KURIAKOSE, JUDGE

btt

